

REMARKS/ARGUMENTS

This communication is in response to the Non Final Office Action dated January 26, 2009. Claims 1-20 were previously canceled, without prejudice. Claim 31 has been amended. New independent claim 37 has been added. No new matter has been added. Claims 21-37 remain pending in this application with claims 21 and 37 being the only independent claim. Reconsideration is respectfully requested in view of the amendments above and arguments presented.

Claim Objections

Claim 31 is objected to in that it recites "the stored y contents" in line 1 which lacks sufficient antecedent basis. The claim has been amended, in accordance with the Examiner's suggestion, and the term "y" deleted. No new matter has been added.

Withdrawal of the claim objection in view of the amendment to the claim is respectfully requested.

Prior Art Rejections

Claims 1-2 are rejected under 35 U.S.C. §102(e) as anticipated by Carter et al. (U.S. Patent Application Publication No. 2004/0054732).

Note that the heading of the rejection and the first line of paragraph 5 of the outstanding Office Action identifies claims 1-2. Claims 1-2 were canceled in the present application by way of Preliminary Amendment filed on April 20, 2005. Accordingly, this appears to be an inadvertent error in identification of the claim numbers which should refer to claims 21 and 22.

Claims 23-27 and 32-36 are rejected under 35 U.S.C. §103(a) as obvious over Carter et al. in view of the Grube et al. (U.S. Patent Application Publication No. 2003/0100326).

Claims 28-31 are rejected under 35 U.S.C. §103(a) as obvious over Carter et al. and Grube et al. in view of Wu et al. (U.S. Patent Application Publication No. 2004/0203946).

Applicants respectfully traverse the prior art rejections for the reasons provided below.

Independent Claims 21 and 37

Claim 21 calls for “wherein the region in which the message (7) is being distributed is specified by different distribution classes, including the classes ‘local’, ‘walking distance’ and ‘city wide’, whereby the distribution class ‘local’ covers approximately the size of a radio cell and /or the neighboring cells, the distribution class ‘walking distance’ covers the region within a walking distance, and the distribution class ‘city wide’ covers a region within the borders of a city.” (emphasis added)

In the outstanding Office Action the Examiner asserts that this limitation is taught by Carter et al. The Examiner specifically states

“wherein the region in which the message (7) is being distributed is specified by different distribution classes ([0037]-[0038] and [0042]). The sender may specify how far away from [sic] the location a recipient may [sic] in order to retrieve an e-mail message), including the classes ‘local’ ([0042]. Carter et al. disclose that the recipient will receive his/her e-mail message based upon location information which is set by the sender), ‘walking distance’ and ‘city wide’ ([0039], [0046] and [0053]), whereby the distribution class ‘local’ covers approximately the size of a radio cell and/or the neighboring cells ([0042]. The user may specify how far away from the location a recipient may be in order to retrieve the e-mail message), the distribution class ‘walking distance’ covers the region within a walking distance, and the distribution class ‘city wide’ covers a region within the borders of a city ([0039]m [0046] and 0053]. The recipient will receive an e-mail message from a parking lot.” {January 26, 2009 Non-Final Office Action: p. 3, ll. 5-15}

Applicants respectfully disagree with the Examiner’s rejection. Claim 21 expressly calls for “different distribution classes” in which the message is to be distributed to and then specifies those as “local”, “walking distance” and “city wide.” Carter et al. discloses a system and method for addressing an e-mail message by specifying one of an e-mail address of an intended recipient, a street address of an intended recipient, or specific physical location of an intended recipient. The latter two means for addressing an e-mail message using Global Positioning System (GPS) coordinates still specify a single intended recipient rather than distribution to all recipients within a specified area.

Carter et al. does teach [0042] a range button 430 in which the sender may specify how far away from the location a recipient may be in order to retrieve a message (e.g., the maximum

distance a recipient may be from a physical location and still be able to retrieve the message). However, the range button does not specify a region in which the message is distributed to all peripheral units within the designated range. Instead, Carter et al. still requires the sender to enter the specific address of an intended recipient (e.g., e-mail address, street address or physical location). The range button merely further restricts or limits that intended specific recipient to receiving the message only if their physical location is within a designated specified geographical range. If the intended recipient is outside the specified geographical range then it would not receive the message irrespective of the fact that the message was addressed to it. Carter et al. fails to disclose or suggest a distribution class in which all peripheral devices within the specified geographical region receives the message globally, rather only a single intended recipient to which the message has been specifically addressed.

Not only does Carter et al. fail to disclose any distribution class, claim 21 is further distinguishable in that it expressly calls for three different distribution classes to include "local", 'walking distance' and 'city wide', whereby the distribution class 'local' covers approximately the size of a radio cell and/or the neighboring cells, the distribution class 'walking distance' covers the region within a walking distance, and the distribution class 'city wide' covers a region within the borders of a city."

The Examiner asserts that range button 430 reads on the claimed "local" distribution class [0042]. The "local" distribution class is distinguishable from range button 430 in Carter et al. since there is no mention that its region is equated in any way with and covers approximately the size of a radio cell and /or the neighboring cells, as found in claim 21. Furthermore, Carter et al. fails to disclose or suggest the other two specified distribution classes ("walking distance" and "city wide") defining a region. It is the Examiner's opinion that these classes are taught by Carter et al. [0046] and [0053]. Paragraph [0046] of Carter et al. teaches that the single intended recipient of the message may be designated by pointing to a single coordinate on a geographical map (not a region encompassing multiple coordinates) rather than entering an e-mail address or street address of the intended recipient. Since only a single coordinate rather than a region encompassing multiple coordinates is selected from the map there is no distribution class to all devices within a region, instead only transmission of a message to a single specified recipient. Paragraph [0053] of Carter et al. does not teach this missing limitation, instead, merely

describing a specific example of the range button 430, described above, in which the maximum distance entered (e.g., the parking lot of the store). Therefore, the message will only be received by the specified intended recipient to which the message has been addressed if they also are geographically within the specified maximum distance entered. Once again the message is targeted to a specific intended recipient rather than distributed to a class of all peripheral devices within a prescribed geographical region.

New independent claim 37 has similar limitations to that discussed above with respect to claim 21 and thus is patentable over the prior art of record for at least the same reasons. Independent claim 37 is further distinguishable over Carter et al. in that it expressly calls for “wherein the prescribed geographic region in which the message (7) is being distributed to all subscribers therein is specified by different distribution classes.” As noted above with respect to claim 21, Carter et al. fails to disclose or suggest distribution of messages to all subscribers within a prescribed geographical region. To the contrary, only a single intended recipient is specified and receives the transmitted message. The range button 430 merely prevents receipt by the intended recipient of a message to whom it was specifically addressed if the intended recipient is not within the specified geographical range.

For at least the foregoing reasons applicant submits that claims 21 and 37 are patentable over the prior art of record. Claims 22-36 depend from independent claim 21 and thus are patentable over the prior art of record for at least the same reasons discussed above with respect to claim 21.


CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Assistant Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,
NORRIS McLAUGHLIN & MARCUS, P.A.

By 
Christa Hildebrand
Reg. No. 34,953
875 Third Avenue - 18th Floor
New York, New York 10022
Phone: (212) 808-0700
Fax: (212) 808-0844
Facsimile: (212)808-0844

00135379CH/CFC